APPEAL NO. 021514
FILED AUGUST 2, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq*. (1989 Act). A contested case hearing was held on May 23, 2002. The hearing officer determined that the appellant (claimant herein) did not sustain a compensable mental trauma injury; that the date of the alleged injury was _____; that the claimant timely reported an injury so that the respondent (self-insured herein) was not relieved of liability for failure to timely report a claim; and that the claimant did not have disability. The claimant appeals, contending that the evidence supported her contention that she suffered an injury and had disability. The claimant also asserts that the self-insured committed fraud and rules violations in the handling of her claim. The self-insured responds that the hearing officer's decision was supported by sufficient evidence.

DECISION

Finding sufficient evidence to support the decision of the hearing officer and no reversible error in the record, we affirm the decision and order of the hearing officer.

The hearing officer made findings of fact and concluded that the claimant did not sustain a compensable injury on _____. The claimant had the burden to prove that she was injured in the course and scope of her employment. There is conflicting evidence in this case. The 1989 Act makes the hearing officer the sole judge of the weight and credibility to be given to the evidence. Section 410.165(a). As the trier of fact, the hearing officer may believe all, part, or none of the testimony of any witness. Texas Workers' Compensation Commission Appeal No. 950084, decided February 28, 1995. The finder of fact may believe that the claimant has an injury, but disbelieve the claimant's testimony that the injury occurred at work as claimed. Johnson v. Employers Reinsurance Corporation, 351 S.W.2d 936 (Tex. Civ. App.-Texarkana 1961, no writ). A fact finder is not bound by the testimony (or evidence) of a medical witness where the credibility of that testimony (or evidence) is manifestly dependent upon the credibility of the information imparted to the medical witness by the claimant. Rowland v. Standard Fire Insurance Company, 489 S.W.2d 151 (Tex. Civ. App.-Houston [14th Dist.] 1972, writ ref'd n.r.e.). An appellate-level body is not a fact finder and does not normally pass upon the credibility of witnesses or substitute its judgment for that of the trier of fact, even if the evidence would support a different result. When reviewing a hearing officer's decision to determine the factual sufficiency of the evidence, we should set aside the decision only if it is so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Appeal No. 950084, *supra*. We conclude that the hearing officer's findings, conclusions, and decision are supported by sufficient evidence and that they are not so contrary to the overwhelming weight of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986).

Given our affirmance of the hearing officer's determination that the claimant did not sustain a compensable injury, we likewise affirm her determination that the claimant did not have disability. By definition, the existence of a compensable injury is a prerequisite to a finding of disability. Section 401.011(16).

Finally, we find no reversible error based upon the claimant's assertion of fraud and rules violations by the self-insured. We note initially that there was no issue concerning these matters before the hearing officer. We also do not find that these allegations were supported by evidence.

We affirm the hearing officer's decision and order.

The true corporate name of the self-insured is **SELF INSURED** and the name and address of its registered agent for service of process is

SELF INSURED
ADDRESS 1
CITY, TEXAS ZIP.

_____
Gary L. Kilgore
Appeals Judge

CONCUR:

_____
Elaine M. Chaney
Appeals Judge

_____
Susan M. Kelley
Appeals Judge